

REMARKS

By this amendment, claim 1 is amended and new claim 16 is added to place this application in condition for allowance. Currently, claims 1-5 and 16 are before the Examiner for consideration on their merits. Claims 13-15 are withdrawn from consideration as being drawn to a non-elected invention. Claims 6-10 are withdrawn as allegedly being directed to patentably distinct species.

First, the submission of the Abstract overcomes the objection set forth in the Office Action.

Second, Applicants assert that the term "semi-liquid polymer" in claim 4 is not indefinite on its face. The specification indicates that the curable material may be a liquid monomer; and the meaning of liquid is not in dispute. As an alternative, the specification teaches that the monomer does not have to be entirely liquid, it can be semi-liquid. Since "semi" clearly means less than the entirety, "semi-liquid" obviously means that the monomer is not entirely in liquid form. Reading claim 4 in light of the specification and that known to one of ordinary skill in the art produces only one conclusion; there is no question as to the meaning of the term "semi-liquid" and the rejection should be withdrawn. As an aside, the Examiner cites the primary reference as teaching a semi-liquid material. It is not seen how "semi-liquid" can be considered to be unclear when the Examiner himself uses such a term in the rejection.

Third, the prior art rejection is traversed in light of the amendment to claim 1. In review, claims 1, 2 and 5 stand rejected under 35 U.S.C. § 102(b) based on Japanese publication no. 7-241916 (Japan). In the rejection, the Examiner asserts that Japan teaches all the features of these two claims, including using colored short fibers to create the non-homogenous effect.

Claims 3 and 4 stand rejected under 35 U.S.C. § 103(a) based on the combination of Japan and United States Patent No. 6,187,244 to Fisher. The Examiner admits that Japan does not teach the use of a monomer. The Examiner cites Fisher as a teaching of the use of a monomer and alleges that it would be obvious to use such in the method of Japan. The reason for the combination is that Fisher and Japan are analogous, and the monomer of Fisher provides improved durability and strength.

Putting aside the propriety of the rejection of claims 1-5, Applicant contends the invention as defined in amended claim 1 and new claim 16 is patentably distinguishable over the applied prior art.

Claim 1 is amended to recite that the means to create the non-homogenous colour effect are fed into the mold by way of a probe, which extends into the mold. Support for this amendment may be found on page 6, lines 13-15. New claim 16 further defines the use of the probe by defining the means to create the non-homogenous colour effect is fed into the mold by way of the probe independent of the coating with the curable materials. Support for claim 16 is also found on page 6 of the specification.

With the amendment to claim 1, Applicants submit that the Japan, alone, or when combined with Fisher, fails to establish a *prima facie* case of obviousness against claim 1. Japan does not teach a probe extending into the mold for feeding the means to create the non-homogenous coloured effect. Therefore, Japan cannot be used under 35 U.S.C. § 102(b) to allege anticipation and the rejection under this statutory section must be withdrawn.

Secondly, there is no motivation to modify Japan and arrive at the invention. Japan is devoid of any suggestion regarding a probe extending in the mold in connection with the means to create the non-homogenous colour effect. Any allegation that such motivation exists can only

be based on the hindsight reconstruction of the prior art in light of Applicants' disclosure, a practice forbidden under current patent law. The Examiner must have an objective basis in fact to make an assertion that claim 1 is *prima facie* obviousness in light of Japan, and no basis exists. Therefore, claim 1 is patentably distinguishable over Japan.

Fisher does not teach the use of a probe and cannot supply the deficiencies in Japan. Even if Fisher is combined with Japan, a *prima facie* case of obviousness is not established against claim 1.

Since claim 1 is allowable over the prior art, its dependent claims 2-5 are also in condition for allowance.

Applicants also contend that new claim 16 is separately patentable over Japan and Fisher. Japan teaches spraying the reinforcing fibers with a thermosetting transparent resin. However, there is no teaching of a method wherein feeding of the means to create a non-homogenous colour effect via a probe is done independent of the application of the curable material. Consequently, there is no basis, in fact, to reject claim 16, either based on Japan alone or the combination of Japan and Fisher.

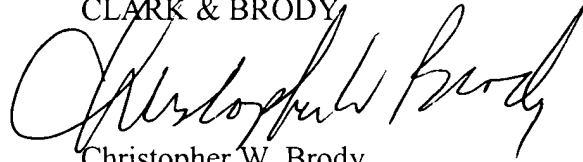
In summary, Applicants submit that each of claims 1 and 16 are patentably distinguishable over the applied prior art, and these claims along with dependent claims 1-5 should be examined and passed onto allowance.

If the Examiner believes that an interview with Applicants' attorney would expedite the allowance of this application, the Examiner is respectfully requested to telephone the undersigned at 202-835-1753.

Again, reconsideration and allowance of this application is respectfully solicited.

A petition for a three month extension of time is made. A check in the amount of \$465.00 is enclosed to cover the petition fee. Please charge any other necessary fees and credit any excess to deposit account 50-1088.

Respectfully Submitted,  
CLARK & BRODY



Christopher W. Brody  
Reg. No. 33,316

Suite 600  
1750 K Street NW  
Washington, DC 20006  
202-835-1111  
202-835-1755 (fax)  
July 18, 2003